

AMENDED IN SENATE APRIL 12, 2005

SENATE BILL

No. 326

Introduced by Senator Dunn

(Principal coauthor: Assembly Member Arambula)

(Coauthor: Assembly Member ~~Arambula~~ Torrico)

February 16, 2005

An act to amend Section 65589.4 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 326, as amended, Dunn. Land use: housing elements.

Existing law requires a multifamily residential housing project to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions. Among those conditions are that the project is subject to a discretionary decision, other than a conditional use permit, and a negative or mitigated negative declaration has been adopted for the project under the California Environmental Quality Act (CEQA). Existing law permits the negative or mitigated negative declaration to be adopted only after a public hearing to receive comments on that declaration if a public hearing is not held with respect to the discretionary decision.

This bill would delete "multifamily" and instead provide that *a an attached* housing development, *as defined*, that is proposed to be placed on a parcel zoned for multifamily or single-family use is not subject to a conditional use permit on any parcel zoned for housing; if the existing percentages of the units are available at affordable housing costs to very low income, lower income, and

moderate-income households for at least 30 years and if the ~~project~~ *housing development* meets specified conditions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65589.4 of the Government Code is
2 amended to read:

3 65589.4. (a) ~~A~~ *An attached* housing development shall be a
4 permitted use not subject to a conditional use permit on any
5 parcel zoned for housing if it satisfies the requirements of
6 subdivision (b) and either of the following:

7 (1) The housing development satisfies the criteria of Section
8 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

9 (2) The housing development meets all of the following
10 criteria:

11 (A) The housing development is subject to a discretionary
12 decision other than a conditional use permit and a negative
13 declaration or mitigated negative declaration has been adopted
14 for the housing development under the California Environmental
15 Quality Act (Division 13 (commencing with Section 21000) of
16 the Public Resources Code). If no public hearing is held with
17 respect to the discretionary decision, then the negative
18 declaration or mitigated negative declaration for the ~~project~~
19 *housing development* may be adopted only after a public hearing
20 to receive comments on the negative declaration or mitigated
21 negative declaration.

22 (B) The housing development is consistent with both the
23 jurisdiction's zoning ordinance and general plan as it existed on
24 the date the application was deemed complete, except that a
25 housing development shall not be deemed to be inconsistent with
26 the zoning designation for the site if that zoning designation is
27 inconsistent with the general plan only because the ~~project~~
28 *housing development* site has not been rezoned to conform with
29 the most recent adopted general plan.

30 (C) The housing development is located in an area that is
31 covered by one of the following documents that has been adopted
32 by the jurisdiction within five years of the date the application for
33 the housing development was deemed complete:

1 (i) A general plan.

2 (ii) A revision or update to the general plan that includes at
3 least the land use and circulation elements.

4 (iii) An applicable community plan.

5 (iv) An applicable specific plan.

6 (D) The housing development consists of not more than 100
7 residential units with a minimum density of not less than 12 units
8 per acre.

9 (E) The housing development is located in an urbanized area
10 as defined in Section 21071 of the Public Resources Code or
11 within a census-defined place with population density of at least
12 5,000 persons per square mile or, if the ~~project~~ *housing*
13 *development* consists of 50 or fewer units, within an incorporated
14 city with a population density of at least 2,500 persons per square
15 mile and a total population of at least 25,000 persons.

16 (F) The housing development is located on an infill site as
17 defined in Section 21061.0.5 of the Public Resources Code.

18 (b) At least 10 percent of the units of the housing development
19 shall be available at affordable housing cost to very low income
20 households, as defined in Section 50105 of the Health and Safety
21 Code, or at least 20 percent of the units of the housing
22 development shall be available at affordable housing cost to
23 lower income households, as defined in Section 50079.5 of the
24 Health and Safety Code, or at least 50 percent of the units of the
25 housing development available at affordable housing cost to
26 moderate-income households, consistent with Section 50052.5 of
27 the Health and Safety Code. The developer of the housing
28 development shall provide sufficient legal commitments to the
29 local agency to ensure the continued availability and use of the
30 housing units for very low, low-, or moderate-income households
31 for a period of at least 30 years.

32 (c) Nothing in this section shall prohibit a local agency from
33 applying design and site review standards in existence on the
34 date the application was deemed complete.

35 (d) The provisions of this section are independent of any
36 obligation of a jurisdiction pursuant to subdivision (c) of Section
37 65583 to identify multifamily sites developable by right.

38 (e) This section does not apply to the issuance of coastal
39 development permits pursuant to the California Coastal Act

1 (Division 20 (commencing with Section 30000) of the Public
2 Resources Code).

3 (f) This section does not relieve a public agency from
4 complying with the California Environmental Quality Act
5 (Division 13 (commencing with Section 21000) of the Public
6 Resources Code); *or relieve an applicant or public agency from*
7 *complying with the Subdivision Map Act (Division 2*
8 *commencing with Section 66473)).*

9 (g) *For purposes of this section, “attached housing*
10 *development” means a structure containing two or more*
11 *dwelling units.*